Hypothetical scenario: what an incorrect TCO claim can look like

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> *Constructed example. The company, goods, dates and figures below are invented to illustrate how the rules can apply. They are not drawn from any real case, and the outcome in a real matter depends on its own facts.*

A mid-sized Australian manufacturer of industrial equipment imports specialised centrifugal pumps under a Tariff Concession Order (TCO). The general rate of duty is 5%, and the TCO reduces it to zero. The TCO description is specific: stainless steel construction, a stated maximum flow rate and particular seal materials.

The pumps received are close (same manufacturer, same model family), but the wall thickness and seal specification differ slightly from the TCO wording. The invoice doesn't show this. The importer and its broker treat the TCO as covering the goods, and the entries are lodged duty-free. The ABF says that to claim a TCO, goods must be classifiable to the tariff classification the TCO is keyed to and precisely meet the TCO description.

The numbers (illustrative only)

Item	Amount
Pumps imported over two years	approx. $8,000,000
General rate of duty (TCO rate claimed: Free)	5%
Duty saved at the border	$400,000
Duty demanded under s165 (the same $400,000, now a debt to the Commonwealth; s165 does not itself impose interest)	$400,000
s243T infringement notice, body corporate: greater of 45 penalty units (45 x $364 = $16,380) or 75% of the shortfall (75% x $400,000 = $300,000)	approx. $300,000
Illustrative total exposure	**approx. $700,000**

The penalty unit value that applies is the one in force when the offence was committed ($330 before 1 July 2026). Here the 75% limb is larger either way. Import GST is worked out on a value that includes duty, so a duty shortfall usually means a GST shortfall as well.

Timeline

1. Years 1-2: Imports. About $8m of pumps entered duty-free under the TCO.

2. 9 months after the last shipment: post-clearance audit. A compliance review selects the company. The ABF examines the commercial documents, the technical specifications and the TCO wording.

3. Finding: concession disallowed. The goods don't precisely match the TCO description, so the 5% general rate applies.

4. Demand: s165 demand for $400,000. A written demand stating the amount and how it was calculated. It must be made within 4 years of when the duty was payable, with no limit for fraud or evasion. By the audit, the earliest entries are about 2 3/4 years old, well inside the limit.

5. Penalty: s243T infringement notice. Can be issued as an alternative to prosecution for a strict-liability false or misleading statement that caused a loss of duty. Time limits apply. The ABF notes a 12-month limit may apply. Here the most recent entries are only 9 months old, so a notice is within time.

Errors are common: 32%. In the ABF Compliance Monitoring Program for 2024-25, 2,061 of 6,434 import declaration lines checked (32%) had errors. Tariff classification was the most common error type (444 detections), and 57 detections involved a tariff concession or other concession. (ABF Goods Compliance Update, December 2025)

What you can do

1. Make a voluntary disclosure before the ABF acts. Under s243T(4), the s243T offence doesn't apply if you voluntarily give the ABF a written error notice and pay the correct duty in full before an infringement notice is served or proceedings begin. Under s243T(4A), a notice is not voluntary if it's given after an officer has used a power to verify the statement (for example,

a s214AD notice), or after an infringement notice or proceedings. The ABF says a disclosure must be full and truthful. It protects you from the s243T and s243U offences, but you still owe the duty. You can lodge it through an ICS amendment or by emailing vdi@abf.gov.au.

2. Get a Tariff Advice. A Tariff Advice is a formal ABF ruling on how specific goods are classified. The ABF suggests one when it isn't clear whether goods are eligible for a TCO. Apply through TAPIN (usually via your broker) or on Form B102. Each advice covers one specific good from one manufacturer.

3. Apply for a new TCO. If no TCO accurately describes your goods, apply on Form B443. A new TCO takes effect from the date the ABF receives the application. It doesn't reach back to earlier imports, so past liability remains. You can also dispute the ABF's decision, but that doesn't change what you owe while the dispute runs.

4. Check your TCO wording against the goods. Compare every element of the TCO (materials, dimensions, ratings, seals, performance limits) against the manufacturer's datasheets, not just the invoice. Re-check when the supplier, model or specification changes. Close isn't enough: the goods must precisely meet the description.

References

1. Customs Act 1901 (Cth) s165
https://www7.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/ca1901124/s165.html

2. Customs Act 1901 (Cth) s243T, incl. subss (4) and (4A)
https://www5.austlii.edu.au/au/legis/cth/consol_act/ca1901124/s243t.html

3. ABF, Infringement Notice Scheme Guide (Nov 2024)
https://www.abf.gov.au/trade-and-goods-compliance-subsite/files/infringement-notice-scheme-guide.pdf

4. ABF, Goods Compliance Update (Dec 2025)
https://www.abf.gov.au/trade-and-goods-compliance-subsite/ComplianceNewsletters/goods-compliance-update-december-2025.pdf

5. Crimes (Amount of a Penalty Unit) Instrument 2026 (F2026N00424)
https://www.legislation.gov.au/F2026N00424/asmade

6. ABF, Voluntary disclosures
https://www.abf.gov.au/help-and-support/voluntary-disclosures

7. ABF, Tariff Concession Order (TCO)
https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/tariff-concession-order

8. ABF, Tariff Advice System
https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-classification/tariff-advice-system

Screening only. Confirm with your licensed customs broker. Not affiliated with the Australian Border Force.
Check your TCO free at TCOandFTAcheck.com.au | support@tcoandftacheck.com.au